

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**  
**JAN 13 2017**  
Clerk, U.S. Courts  
District Of Montana  
Missoula Division

SHAWN SOBOTKA,

Plaintiff,,

vs.

CATHY REDFERN, MEDICAL  
SERVICES MANAGER; DR. KOHUT,  
DOCTOR; and DR. PINE,  
ORTHOPEDICS,

Defendants.

CV 16-47-H-DLC-JTJ

ORDER

United States Magistrate Judge John Johnston entered his Order, Findings and Recommendations in this matter on December 14, 2016, recommending dismissal of Defendant Dr. Pine. The parties failed to timely object to the Findings and Recommendations, and so waived their right to de novo review of the record.<sup>1</sup> 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981);

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<sup>1</sup> The Court notes that Plaintiff Shawn Sobotka did file a "Notice" with the Court where he stated that he "agrees with the Findings and Recommendations of the U.S. Magistrate Judge, the Most Honorable Judge John Johnston." (Doc. 7 at 1.)

*Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

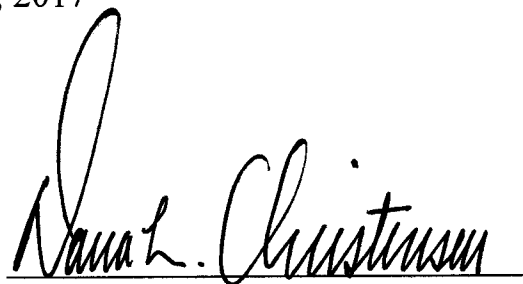
Having reviewed the Findings and Recommendations, the Court finds no clear error in Judge Johnston’s conclusion that Dr. Pine should be dismissed from this matter because the allegations in the Complaint fail to plausibly suggest that Dr. Pine’s actions or inactions were the cause of Plaintiff’s alleged injuries.

Accordingly, there being no clear error in Judge Johnston’s Findings and Recommendations, IT IS ORDERED that:

(1) Judge Johnston’s Findings and Recommendations (Doc. 6) are ADOPTED IN FULL.

(2) Defendant Dr. Pine is DISMISSED from this case.

Dated this 13<sup>th</sup> day of January, 2017

  
Dana L. Christensen, Chief Judge  
United States District Court